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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,168	08/18/2006	Karl Mulligan	36290-0409-00-US	8905
23973 7590 05/01/2007 DRINKER BIDDLE & REATH ATTN: INTELLECTUAL PROPERTY GROUP ONE LOGAN SQUARE 18TH AND CHERRY STREETS PHILADELPHIA, PA 19103-6996			EXAMINER SHEN, WU CHENG WINSTON	
			ART UNIT 1632	PAPER NUMBER
			MAIL DATE 05/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/579,168

Applicant(s)

MULLIGAN ET AL.

Examiner

Wu-Cheng Winston Shen

Art Unit

1632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-38 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 1-38 are pending in the instant application.

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions, which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- I. Claims 1-3, drawn to an isolated nucleic acid sequence which comprises a sequence selected from the group consisting of: Sequence ID No. 1, Sequence ID No. 2, and sequence ID No 3.
- II. Claims 32-36, drawn to a polynucleotide that is *anti-sense* to an isolated nucleic acid sequence of any claim 1; a method of treating cancer in an individual by inducing apoptosis in cells in the individual which express an MQ 1 protein, which method comprises a step of treating an individual with an anti-sense polynucleotide of any of claims 32 to 34.
- III. Claims 4-7, 37, and 38, drawn to an isolated protein encoded by a nucleic acid sequence according to claim 1; an isolated protein encoded by a nucleic acid sequence

Art Unit: 1632

according to claim 2; an isolated protein encoded by a nucleic acid sequence according to claim 3.

IV. Claims 8-11, and 19-31 (in part), drawn to an antibody which binds specifically to the protein of claim 4, and any other antibody that competes directly or by steric hindrance therewith for said protein; and a method of detecting an astrocytoma cell in a sample of human cells, which method comprises the step of contacting the cell sample with an antibody according to claim 8, or a fragment thereof, and detecting those cells which have bound the antibody or fragment, wherein binding of the antibody or the fragment to a cell is indicative of an astrocytoma cell; a method of detecting a primary breast carcinoma cell in a sample of human cells, which method comprises the step of contacting the cell sample with an antibody according to claim 8, or a fragment thereof, and detecting those cells which have bound the antibody or fragment, wherein binding of the antibody or the fragment to a cell is indicative of a primary breast carcinoma cell; a diagnostic kit for diagnosing the presence of a cell selected from the group consisting of: astrocytoma cells; malignant melanoma secondary tumor cells; and primary breast carcinoma cells, the kit comprising a (primary) antibody according to claim 18, or a fragment thereof; a biological targeting device comprising an antibody according to claim 18, or a fragment thereof, and a therapeutic ligand; a therapeutic antibody comprising an antibody according to claim 18, or a fragment thereof; a method of treating cancer in an individual by inducing apoptosis in cells

in the individual which express an MQ1 protein, which method comprises a step of treating an individual with an antibody of any claim 18, or a fragment thereof.

- V. Claim 12, drawn to a method of producing a polyclonal antibody to a protein comprising: inoculating an animal with a protein according to claim 4, wherein the protein elicits an immune response in the animal to produce the antibody; and isolating the antibody from the animal.
- VI. Claim 13, drawn to a method of producing a polyclonal antibody as claimed in Claim 12 in which the animal is inoculated with G-CCM cells of ECACC deposit No. 86022702.
- VII. Claims 14 and 16 (in part), drawn to a method for producing a hybridoma, comprising the step of inoculating a suitable subject with a protein according to claim 4, or an antigenic fragment thereof, and fusing cells from the subject with a myeloma cell to produce the hybridoma; and a hybridoma cell obtainable according to the method of claim 14.
- VIII. Claims 15 and 16 (in part), drawn to a method according to claim 14 in which the subject is inoculated with G-CCM cells of ECACC deposit No. 86022702; and a hybridoma cell obtainable according to the method of claim 15.
- IX. Claim 17, drawn to a hybridoma cell of, or derived from, ECACC Deposit No. 03073001.
- X. Claims 18, and 19-31 (in part), drawn to a monoclonal antibody obtainable from a hybridoma cell of, or derived from, ECACC Deposit No. 03073001; a method of detecting an astrocytoma cell in a sample of human cells, which method

Art Unit: 1632

comprises the step of contacting the cell sample with an antibody according to claim 18, or a fragment thereof, and detecting those cells which have bound the antibody or fragment, wherein binding of the antibody or the fragment to a cell is indicative of an astrocytoma cell; a method of detecting a primary breast carcinoma cell in a sample of human cells, which method comprises the step of contacting the cell sample with an antibody according to claim 18, or a fragment thereof, and detecting those cells which have bound the antibody or fragment, wherein binding of the antibody or the fragment to a cell is indicative of a primary breast carcinoma cell; a diagnostic kit for diagnosing the presence of a cell selected from the group consisting of: astrocytoma cells; malignant melanoma secondary tumor cells; and primary breast carcinoma cells, the kit comprising a (primary) antibody according to claim 18, or a fragment thereof; a biological targeting device comprising an antibody according to claim 18, or a fragment thereof, and a therapeutic ligand; a therapeutic antibody comprising an antibody according to claim 18, or a fragment thereof; a method of treating cancer in an individual by inducing apoptosis in cells in the individual which express an MQ1 protein, which method comprises a step of treating an individual with an antibody of any claim 18, or a fragment thereof.

3. Additionally, each group named above is subject to further restriction. Applicant is required to further elect a specific SEQ ID NO from (the claim, table, etc), [or a specific combination of... to which the claims will be limited]. This is **NOT** an election of species.

Art Unit: 1632

Structurally distinct nucleotide sequences are distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such nucleotide sequences are presumed to represent an independent and distinct invention, subject to restriction requirement pursuant to 35 USC 121 and 37 CFR 1.141. By statute, “[i]f two or more independent and distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of the inventions.” 35 U.S.C. 121. Pursuant to this statute, the rules provide that “[i]f two or more independent and distinct inventions are claimed in a single application, the examiner in his action shall require the applicant... to elect that invention to which his claim shall be restricted.” 37 CFR 1.142 (a). See also 37 CFR 1.141(a). It is noted that searching more than one of the claimed patentably distinct sequences represents a serious burden for the office.

4. The inventions listed as Groups I-X do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Applicant’s claims encompass multiple inventions and do not have a special technical feature which link the inventions one to the other, and lack unity of invention. The common technical feature in all groups, as stated in claim 1, is an isolated nucleic acid sequence which comprises a sequence selected from the group consisting of: Sequence ID No. 1, Sequence ID No. 2, and sequence ID No. 3. SEQ ID No. 1, 2, and 3 are splice variants of cDNA clones encoding MQ1 cell surface glycoprotein of Astrocytoma cell. However, this common technical

Art Unit: 1632

feature of a cDNA encoding an MQ1 cell surface glycoprotein of an astrocytoma cell cannot be a special technical feature under PCT Rule 13.2 because the feature is shown in the prior art.

As listed in the following pages 7-9, Genebank database locus AF028593 reads on the recited SEQ ID No: 1 of instant application.

gb|AF028593.1|AF028593 Homo sapiens transmembrane protein Jagged 1 (HJ1) mRNA,
complete cds
Length=5457

Score = 4327 bits (2183), Expect = 0.0
Identities = 2270/2270 (100%), Gaps = 0/2270 (0%)
Strand=Plus/Plus

Query	1	GCTCAGAATACCAATGACTGCAGCCCTCATCCCTGTTACAACAGCGGCACCTGTGTGGAT	60
Sbjct	2601	GCTCAGAATACCAATGACTGCAGCCCTCATCCCTGTTACAACAGCGGCACCTGTGTGGAT	2660
Query	61	GGAGACAACCTGGTACCGGTGCGAATGTGCCCCGGGTTTGTCTGGGCCCGACTGCAGAATA	120
Sbjct	2661	GGAGACAACCTGGTACCGGTGCGAATGTGCCCCGGGTTTGTCTGGGCCCGACTGCAGAATA	2720
Query	121	AACATCAATGAATGCCAGTCTTCACCTTGTGCCTTTGGAGCGACCTGTGTGGATGAGATC	180
Sbjct	2721	AACATCAATGAATGCCAGTCTTCACCTTGTGCCTTTGGAGCGACCTGTGTGGATGAGATC	2780
Query	181	AATGGCTACCGGTGTGTCTGCCCTCCAGGGCACAGTGGTGCCAAGTGCCAGGAAGTTTCA	240
Sbjct	2781	AATGGCTACCGGTGTGTCTGCCCTCCAGGGCACAGTGGTGCCAAGTGCCAGGAAGTTTCA	2840
Query	241	GGGAGACCTTGCCATCACCATGGGGAGTGTGATACCAGATGGGGCCAAATGGGATGATGAC	300
Sbjct	2841	GGGAGACCTTGCCATCACCATGGGGAGTGTGATACCAGATGGGGCCAAATGGGATGATGAC	2900
Query	301	TGTAATACCTGCCAGTGCCTGAATGGACGGATCGCCTGCTCAAAGGTCTGGTGTGGCCCT	360
Sbjct	2901	TGTAATACCTGCCAGTGCCTGAATGGACGGATCGCCTGCTCAAAGGTCTGGTGTGGCCCT	2960
Query	361	CGACCTTGCCCTGCTCCACAAAGGGCACAGCGAGTGCCCCAGCGGGCAGAGCTGCATCCCC	420
Sbjct	2961	CGACCTTGCCCTGCTCCACAAAGGGCACAGCGAGTGCCCCAGCGGGCAGAGCTGCATCCCC	3020
Query	421	ATCCTGGACGACCAGTGCTTCGTCCACCCCTGCACTGGTGTGGGCGAGTGTCCGTCTTCC	480
Sbjct	3021	ATCCTGGACGACCAGTGCTTCGTCCACCCCTGCACTGGTGTGGGCGAGTGTCCGTCTTCC	3080
Query	481	AGTCTCCAGCCGGTGAAGACAAAGTGCACCTCTGACTCCTATTACCAGGATAACTGTGCG	540
Sbjct	3081	AGTCTCCAGCCGGTGAAGACAAAGTGCACCTCTGACTCCTATTACCAGGATAACTGTGCG	3140
Query	541	AACATCACATTTACCTTTAACAAGGAGATGATGTACCAGGTCTTACTACGGAGCACATT	600
Sbjct	3141	AACATCACATTTACCTTTAACAAGGAGATGATGTACCAGGTCTTACTACGGAGCACATT	3200
Query	601	TGCAGTGAATTGAGGAATTTGAATATTTTGAAGAATGTTTCCGCTGAATATTCAATCTAC	660

Art Unit: 1632

Sbjct	3201	 TGCAGTGAATTGAGGAATTTGAATATTTTGAAGAATGTTTCCGCTGAATATTCAATCTAC	3260
Query	661	ATCGCTTGCGAGCCTTCCCCCTTCAGCGAACAATGAAATACATGTGGCCATTTCTGCTGAA	720
Sbjct	3261	 ATCGCTTGCGAGCCTTCCCCCTTCAGCGAACAATGAAATACATGTGGCCATTTCTGCTGAA	3320
Query	721	GATATACGGGATGATGGGAACCCGATCAAGGAAATCACTGACAAAATAATCGATCTTGTT	780
Sbjct	3321	 GATATACGGGATGATGGGAACCCGATCAAGGAAATCACTGACAAAATAATCGATCTTGTT	3380
Query	781	AGTAAACGTGATGGAAACAGCTCGCTGATTGCTGCCGTTGCAGAAGTAAGAGTTCAGAGG	840
Sbjct	3381	 AGTAAACGTGATGGAAACAGCTCGCTGATTGCTGCCGTTGCAGAAGTAAGAGTTCAGAGG	3440
Query	841	CGGCCTCTGAAGAACAGAACAGATTTCTTGTTCCCTTGCTGAGCTCTGTCTTAACTGTG	900
Sbjct	3441	 CGGCCTCTGAAGAACAGAACAGATTTCTTGTTCCCTTGCTGAGCTCTGTCTTAACTGTG	3500
Query	901	GCTTGGATCTGTTGCTTGGTGACGGCCTTCTACTGGTGCCTGCGGAAGCGGCGGAAGCCG	960
Sbjct	3501	 GCTTGGATCTGTTGCTTGGTGACGGCCTTCTACTGGTGCCTGCGGAAGCGGCGGAAGCCG	3560
Query	961	GGCAGCCACACACACTCAGCCTCTGAGGACAACACCACCAACAACGTGCGGGAGCAGCTG	1020
Sbjct	3561	 GGCAGCCACACACACTCAGCCTCTGAGGACAACACCACCAACAACGTGCGGGAGCAGCTG	3620
Query	1021	AACCAGATCAAAAACCCCATTTGAGAAACATGGGGCCAACACGGTCCCCATCAAGGATTAT	1080
Sbjct	3621	 AACCAGATCAAAAACCCCATTTGAGAAACATGGGGCCAACACGGTCCCCATCAAGGATTAT	3680
Query	1081	GAGAACAAGAACTCCAAAATGTCTAAAATAAGGACACACAATTCTGAAGTAGAAGAGGAC	1140
Sbjct	3681	 GAGAACAAGAACTCCAAAATGTCTAAAATAAGGACACACAATTCTGAAGTAGAAGAGGAC	3740
Query	1141	GACATGGACAAACACCAGCAGAAAGCCCGGTTTGCCAAGCAGCCGGCGTACACGCTGGTA	1200
Sbjct	3741	 GACATGGACAAACACCAGCAGAAAGCCCGGTTTGCCAAGCAGCCGGCGTACACGCTGGTA	3800
Query	1201	GACAGAGAAGAGAAGCCCCCAACGGCAGCCGACAAAACACCCAAACTGGACAAACAAA	1260
Sbjct	3801	 GACAGAGAAGAGAAGCCCCCAACGGCAGCCGACAAAACACCCAAACTGGACAAACAAA	3860
Query	1261	CAGGACAACAGAGACTTGGAAGTGCCAGAGCTTAAACCGAATGGAGTACATCGTATAG	1320
Sbjct	3861	 CAGGACAACAGAGACTTGGAAGTGCCAGAGCTTAAACCGAATGGAGTACATCGTATAG	3920
Query	1321	CAGACCGCGGGCACTGCCGCCGTAGGTAGAGTCTGAGGGCTTGTAGTTCTTTAACTGT	1380
Sbjct	3921	 CAGACCGCGGGCACTGCCGCCGTAGGTAGAGTCTGAGGGCTTGTAGTTCTTTAACTGT	3980
Query	1381	CGTGTCACTACTCGAGTCTGAGGCCGTTGCTGACTTAGAATCCCTGTGTTAATTTAAGTTT	1440
Sbjct	3981	 CGTGTCACTACTCGAGTCTGAGGCCGTTGCTGACTTAGAATCCCTGTGTTAATTTAAGTTT	4040
Query	1441	TGACAAGCTGGCTTACACTGGCAATGGTAGTTTCTGTGGTTGGCTGGGAAATCGAGTGCC	1500
Sbjct	4041	 TGACAAGCTGGCTTACACTGGCAATGGTAGTTTCTGTGGTTGGCTGGGAAATCGAGTGCC	4100
Query	1501	GCATCTCACAGCTATGCAAAAAGCTAGTCAACAGTACCCTGGTTGTGTGTCCCCTTGCAG	1560

Art Unit: 1632

Sbjct	4101	 GCATCTCACAGCTATGCAAAAAGCTAGTCAACAGTACCCTGGTTGTGTGTCCCCCTTGACAG	4160
Query	1561	CCGACACGGTCTCGGATCAGGCTCCCAGGAGCCTGCCAGCCCCCTGGTCTTTGAGCTCC	1620
Sbjct	4161	 CCGACACGGTCTCGGATCAGGCTCCCAGGAGCCTGCCAGCCCCCTGGTCTTTGAGCTCC	4220
Query	1621	CACTTCTGCCAGATGTCCTAATGGTGATGCAGTCTTAGATCATAGTTTTATTATATTTA	1680
Sbjct	4221	 CACTTCTGCCAGATGTCCTAATGGTGATGCAGTCTTAGATCATAGTTTTATTATATTTA	4280
Query	1681	TTGACTCTTGAGTTGTTTTTGTATATTGGTTTTATGATGACGTACAAGTAGTTCTGTATT	1740
Sbjct	4281	 TTGACTCTTGAGTTGTTTTTGTATATTGGTTTTATGATGACGTACAAGTAGTTCTGTATT	4340
Query	1741	TGAAAGTGCCTTTGCAGCTCAGAACCACAGCAACGATCACAAATGACTTTATTATTTAtt	1800
Sbjct	4341	 TGAAAGTGCCTTTGCAGCTCAGAACCACAGCAACGATCACAAATGACTTTATTATTTATT	4400
Query	1801	ttttttAATTGTATTTTTTGTGTGGGGGAGGGGAGACTTTGATGTCAGCAGTTGCTGGT	1860
Sbjct	4401	 TTTTTTAATTGTATTTTTTGTGTGGGGGAGGGGAGACTTTGATGTCAGCAGTTGCTGGT	4460
Query	1861	AAAATGAAGAATTTAAAGaaaaaaaTGTCAAAAGTAGAACTTTGTATAGTTATGTAAATA	1920
Sbjct	4461	 AAAATGAAGAATTTAAAGAAAAAATGTCAAAGTAGAACTTTGTATAGTTATGTAAATA	4520
Query	1921	ATTCTTTTTTATTAATCACTGTGTATATTTGATTATTAACTTAATAATCAAGAGCCTTA	1980
Sbjct	4521	 ATTCTTTTTTATTAATCACTGTGTATATTTGATTATTAACTTAATAATCAAGAGCCTTA	4580
Query	1981	AAACATCATTCCTTTTTATTTATATGTATGTGTTTGAAGTTGAAGGTTTTTGATAGCATT	2040
Sbjct	4581	 AAACATCATTCCTTTTTATTTATATGTATGTGTTTGAAGTTGAAGGTTTTTGATAGCATT	4640
Query	2041	GTAAGCGTATGGCTTTAtttttttGAACTCTTCTCATTACTTGTGCTATAAGCCAAAA	2100
Sbjct	4641	 GTAAGCGTATGGCTTTATTTTTTTGAACTCTTCTCATTACTTGTGCTATAAGCCAAAA	4700
Query	2101	TTAAGGTGTTTGAAAATAGTTTATTTTAAACAATAGGATGGGCTTCTGTGCCCAGAATA	2160
Sbjct	4701	 TTAAGGTGTTTGAAAATAGTTTATTTTAAACAATAGGATGGGCTTCTGTGCCCAGAATA	4760
Query	2161	CTGATGGAAtttttttGTACGACGTCAGATGTTTAAACACCTTCTATAGCATCACTTAA	2220
Sbjct	4761	 CTGATGGAATTTTTTTGTACGACGTCAGATGTTTAAACACCTTCTATAGCATCACTTAA	4820
Query	2221	AACACGTTTTAAGGACTGACTGAGGCAGTTTGAGGATTAGTTTAGAACAG	2270
Sbjct	4821	 AACACGTTTTAAGGACTGACTGAGGCAGTTTGAGGATTAGTTTAGAACAG	4870

5. This application contains claims directed to the following patentably distinct species:

malignant astrocytomas; malignant melanoma secondary tumors; and primary breast carcinomas

Art Unit: 1632

(claim 36). The species are independent or distinct because they are distinct cancer cells at different stages of tumor development that requires different steps and technical considerations for a method of treatment.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 36 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

6. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction were not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103 (a) of the other invention.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication from the examiner should be directed to Wu-Cheng Winston Shen whose telephone number is (571) 272-3157 and Fax number is 571-273-3157. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the supervisory patent examiner, Peter Paras, can be reached on (571) 272-4517. The fax number for TC 1600 is (571) 273-8300.

Art Unit: 1632

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wu-Cheng Winston Shen, Ph. D.

Patent Examiner

Art Unit 1632

Valerie Bullock
Art 1632